



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

August 30, 2021

By ECF

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Ndemeh v. Boudreau, et. al.*, 20-cv-04492 (RA)

Dear Judge Abrams:

This Office represents defendants Vincent Boudreau, William C. Thompson, Anthony Laperuta, Wendy Thornton, George Rhinehart, and Tanni Baidya (collectively, “Defendants”) in the above-referenced action. In light of the fact that Plaintiff has now missed two consecutive deadlines for opposing Defendants’ motion to dismiss, after having already received four extensions of time to file his papers, I write to request that the Court deem the motion as unopposed.

Defendants filed their motion to dismiss Plaintiff’s Amended Complaint on April 16, 2021. *See* ECF No. 28. Plaintiff was originally supposed to file his opposition by May 21, 2021. *See* ECF No. 29. Plaintiff subsequently requested and received three extensions, with Defendants’ consent, pursuant to which the deadline to file his opposition papers was ultimately set to August 13, 2021. *See* ECF Nos. 31-36. Yet eleven days after the August 13, 2021 deadline, Plaintiff had failed to file his opposition papers (or request an extension of time to do so).

As a result, on August 24, 2021 Defendants filed a letter motion asking the Court to deem their motion to dismiss as unopposed. *See* ECF No. 37. That same day, Plaintiff requested a *nunc pro tunc* extension of time, seeking to file his opposition on August 25, 2021. *See* ECF No. 38. The Court granted Plaintiff’s request, with Defendants’ consent, and extended the deadline to file his opposition papers to August 26, 2021. *See* ECF No. 39. Defendants’ request that the Court deem their motion unopposed was therefore denied as moot. *Id.*

It is now four days past the August 26, 2021 deadline and, as of the date hereof, Plaintiff still has not served any opposition to Defendants’ motion to dismiss, nor has he requested another

extension of time to do so.¹ Accordingly, Defendants respectfully request that the Court deem their motion to dismiss as unopposed. Defendants further request that the Court deny any additional requests from Plaintiff for an extension of time to file his opposition papers.

Thank you for your time and attention to this matter.

Respectfully submitted,

/s/ Johane Severin

Johane Severin

Assistant Attorney General

(212) 416-8565

Defendants' application is denied without prejudice. If Plaintiff does not file an opposition to Defendants' motion to dismiss by September 10, 2021, Defendants' motion to dismiss will be deemed unopposed. Plaintiff will not be given another extension of time.

SO ORDERED.



Hon. Ronnie Abrams

08/31/21

¹ On August 27, 2021 Plaintiff's counsel emailed me about some supposed issues related to the fact that this Office has not filed a formal Notice of Appearance in this case. However, the existence (or lack) of such a Notice is entirely unrelated to Plaintiff's responsibility to comply with Court-ordered deadlines for opposing Defendants' motion to dismiss. In any event, there is no requirement to file a Notice of Appearance and, as I advised Plaintiff's counsel, such a Notice was unnecessary here because multiple filings in this case have clearly indicated that the Office of the Attorney General represents Defendants. See ECF Nos. 24, 27-28, 37. Indeed, Plaintiff's counsel has contacted me directly to request numerous extensions and, in his own letter to the Court last month, referred to me as "Ms. Johane Severin, Esq., counsel for defendants." See ECF No. 33. Thus, to the extent Plaintiff intends to raise this issue with the Court, it should be rejected as baseless.